

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION**

**IDRIS HARVEY and
MORLIN SUMLER**

PLAINTIFFS

VS.

CIVIL ACTION NO. 3:07cv-00248-DPJ-JCS

UNITED STATES OF AMERICA

DEFENDANT

ORDER OF DISMISSAL

This cause is before the Court *sua sponte* for consideration of dismissal of this action pursuant to Rules 4(m) and 41(b) of the Federal Rules of Civil Procedure due to Plaintiffs' failure to prosecute and failure to comply with a previous order of this Court.

Plaintiff filed a Complaint on May 4, 2007. However, the docket sheet does not indicate that Defendant has ever been served with process. On January 10, 2008, the Court ordered that Plaintiff show cause why this action should not be dismissed and required that she respond to the Court's order by January 30, 2008. To date, Plaintiff has not responded to this Court's order.

This Court has the authority under Rule 41(b) of the Federal Rules of Civil Procedure and its inherent authority to dismiss this action for Plaintiff's failure to prosecute and failure to comply with orders of the Court. *See Link v. Wabash R.R.*, 370 U.S. 626 (1962); *Larson v. Scott*, 157 F.3d 1030 (5th Cir. 1998); *McCullough v. Lynaugh*, 835 F.2d 1126 (5th Cir. 1988). Such a "sanction is necessary in order to prevent undue delays in the disposition of pending cases and to avoid congestion in the calendars" of the Court. *Link*, 370 U.S. at 629–30.

IT IS, THEREFORE, ORDERED that this case is dismissed without prejudice pursuant to Federal Rule of Civil Procedure 4(m) and 41(b) and the Court's inherent authority.

SO ORDERED AND ADJUDGED this the 6th day of February, 2008.

s/ Daniel P. Jordan III
UNITED STATES DISTRICT JUDGE